

## **FEMA may pay repair tab from Irene after all**

[Bennington Banner](#)

October 24, 2012

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BENNINGTON -- Local, state and federal officials say they have reason to be more optimistic that the federal government will reimburse the town for millions of dollars in emergency work completed in the Roaring Branch following Tropical Storm Irene.

### **Federal agencies**

Two federal agencies appear to have settled a turf war, according to the state's congressional delegation, opening the door for Bennington to receive payment from the Federal Emergency Management Agency.

"For more than a year Sen. (Patrick) Leahy, Sen. (Bernie) Sanders, Congressman (Peter) Welch and Gov. (Peter) Shumlin have been working with FEMA to ensure that towns that acted immediately to remove debris from rivers to prevent additional catastrophic flooding were reimbursed for the work. They all believed it was the federal government's responsibility. Last week the logjam appeared to break, and FEMA now seems to be taking a fresh look at this issue. Details will matter, and there are no final answers yet in hand, but things are certainly looking better than they have in months," the four officials said in a statement provided to the Banner on Tuesday.

Town Manager Stuart A. Hurd said the state's congressional delegation passed along word to the town late on Friday that FEMA officials in Washington had "acquiesced" and are now acknowledging "that perhaps they have some responsibility."

"I don't want to get people's hopes up too high, so we will be cautiously optimistic," Hurd said.

Flood waters in the August 2011 storm created a safety hazard, amassing debris under bridges and altering the river's channel. FEMA ruled that the work completed immediately after the storm by the town to restore the river was not eligible for reimbursement, leaving local taxpayers on the hook to repay funds the town borrowed. The town is in the process of appealing the rejection of the claim for about \$4 million in emergency river work.

The rejection came as a shock, local officials said, because FEMA regulations provided to the town, and FEMA officials themselves, led the town to believe the work, known as emergency protective measures, would be at least partially reimbursed.

The congressional delegation and state officials have been working on the town's behalf to help the town receive payment. The town began working on its appeal in late August.

The towns of Woodford and Rockingham are in similar situations. Hurd said Bennington and the other towns may now be in a stronger position in their appeals. "It simply opens

a door that really had been closed to those of us that were in that boat and seeking those funds," he said.

FEMA's rejection was based on a clause in federal law that says FEMA will not fund projects that are eligible for funding by another federal agency. Until last week, FEMA had been insisting that the Natural Resources Conservation Service, part of the U.S. Department of Agriculture, is responsible for the funding, setting up a turf dispute between the two agencies.

Staff members working for the state's congressional delegation met with FEMA several times over the summer seeking a solution. The three-man delegation met with FEMA Administrator Craig Fugate themselves in August. That produced little progress until last week, however, when staffers again met with FEMA and NRCS officials in Leahy's Washington office. NRCS officials stated that that the agency does not fund the type of work completed by Bennington and other Vermont towns. FEMA changed course just days later.

"Last Friday, FEMA informed staff from Sen. Leahy, Rep. Welch and my office that it has reversed their position and that they will now reimburse towns for this work. While we have not yet received written confirmation of this development, and while we do not want to declare victory until FEMA actually reimburses these towns, this is clearly an important step in the right direction," Sanders said.

It is unclear if FEMA will provide a ruling on the town's appeal. The town's original documentation that was submitted to FEMA may not have been evaluated on the merits of the information but rather because FEMA officials believed federal law disqualified the town from receiving reimbursement.

Select Board Chairman Joseph L. Krawczyk Jr. credited town staff for the shift in FEMA's position.

"The softening of their position was from the work that you've already submitted," he said. "So, it did have an impact, the hard work that you put in there."

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